

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ATSUSHI MISAWA

Appeal No. 2004-2123
Application 09/663,354

ORDER REMANDING TO EXAMINER

On August 27, 2004, a Reply Brief (Paper No. 24) was filed in response to the Examiner's Answer mailed April 22, 2004 (Paper No. 20). It should be noted that this is a duplicate of the Reply Brief originally filed June 21, 2004 (no paper number given). However, there is no indication in the record of whether or not the examiner has considered the Reply Brief. Section 1.193(b)(1) of the Code of Federal Regulations (2004) states:

(b)(1) Appellant may file a reply brief to an examiner's answer or a supplemental examiner's answer within two months from the date of such examiner's answer or supplemental examiner's answer. . . . The

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primary examiner must either acknowledge receipt and entry of the reply brief or withdraw the final rejection and reopen prosecution to respond to the reply brief.

Accordingly, it is

ORDERED that the application is remanded to the

Examiner:

1. for proper response to the Reply Brief originally filed June 21, 2004 (no paper number given);
2. for entry of the Reply Brief filed June 21, 2004 into the appropriate databases and on the "Contents" page of the file wrapper; and
3. for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE SHAW
Program and Resource Administrator
(571) 272-9797

DS:psb

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cc: Birch Stewart Kolasch & Birch
P.O. Box 747
Falls Church, VA 22040-0747